IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10907 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BALASINOR QUARRY SEVALIA CEMENT WORKS EMPLOYEES UNION

Versus

MAYUR AMIN - CHAIRMAN AND MANAGING DIRECTOR

Appearance:

1. Special Civil Application No. 10907 of 2002

MR MUKUL SINHA for Petitioner No. 1

RULE SERVED BY DS for Respondent No. 1

Mr.M.R.Mengdey, Asst.GOVERNMENT PLEADER for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 12/02/2004

ORAL JUDGEMENT

The present petition is preferred by the

petitioner to direct the respondent No.2-Dist.Collector, Kheda to forthwith initiate recovery proceedings to recover the dues under certificate issued by the labour court.

2. Heard Mr.Mankad for the petitioner and Mr.Mr.Mengdey, Ld.AGP for respondents. This court on 28.1.2004 passed the following order:

"It appears that inspite of order passed by this court earlier, no concrete positive steps are taken for enforcement of the recovery and realisation of money. Mr.Mengdey, learned Assistant Government Pleader submitted that as per his instructions auction is held. However, he is not in a position to state the subsequent deverlopments after January, 2003. Mr.Sinha for the petitioner submits that the workman have no even sufficient means to subsist or to attend the court proceedings and to come to Ahmedabad. In any event, considering the facts and circumstances, it appears that it is the obligatory duty on the part of the Revvenue officers to recover the amount as per the Recovery Certificate and since this court is not informed regarding the positive steps taken for realisation of the money, respondent No.2, Dist.Collector, Kheda shall direct the concerned Mamalatdar to take steps for recovery of the amount including by finalisation of auction, if any, and shall also direct the said Mamalatdar who is seized with the proceedings of recovery to remain personally present in court on 12th February, 2004. S.O. to 12.2.2004.

Office shall serve a copy of the order to the office of the Government Pleader for its implementation."

3. Thereafter, today when the matter is taken up for final hearing, the Ld.AGP, under the instructions of Mr.K.C.Patel, Mamalatdar who is present in the court, submitted the report addressed by the Mamalatdar, Balasinore to the Govt.Pleader stating that the auction sale of one of the properties is held on 9.12.2003 for the land admeasuring 48 Hectares-02-14 RA and 25% of the auction price, i.e. Rs.8,59,100/- is recovered and the balance amount of Rs.25,64,461/- is to be deposited with the office of the Collector by 20.2.2004. It has been

further stated that there are other properties and the matter has been referred for fixing the upset price and after the upset price is fixed the process for recovery shall be completed within a period of three months. Said report is taken on record.

4. Under the above circumstances, I find that when the office of the District Collector, Kheda has taken action for recovery of amount pusuant to the recovery certificate issued by the labour court, and the recovery is under process, the following directions shall meeet with the ends of justice:

(i) The District Collector, Kheda - respondent No.2 herein shall ensure to see that as per the declaration made by the Ld.AGP, for(i) the process of auction of the property which is already held shall be finalised by 1.3.2004 and (ii) the other properties for which auction is yet to take place matter shall be expedited and the process of auction shall be completed as early as possible preferably within three months from 1.3.2004.

(ii) After the amount is so recovered by the District Collector, Kheda, same shall be deposited in the labour court for further appropriate orders in accordance with law.

5. The petition is allowed accordingly. Rule is made absolute to the aforesaid extent.

12.2.2004 (JAYANT PATEL,J)